

## REMARKS

Claims 1 - 4, 6 - 12 and 18 - 26 are in the application and are presented for consideration. By this Amendment, Applicant has canceled some original claims, amended some original claims and presented new claims. A total of 20 claims are presented with three claims being independent. No fee is due with regard to the submission of additional claims.

The drawing has been objected to for failing to show the “tang” of claim 5. These features have now been canceled from the claims.

The abstract has been objected to with regard to the language and format.

Applicant has now presented a new abstract which is in full conformance with the guidelines of the U.S. Patent and Trademark Office.

Claim 1 has been rejected as being anticipated by Day (U.S. 5,895,396).

Applicant has made minor changes to claim 1 so that the subject matter claimed is clearer. It is Applicant’s position that the prior art as a whole including Day fail to teach and fail to suggest the invention as claimed.

The Day et al. Reference discloses surgical pins for attaching a surgical membrane barrier to tissue structure of the patient. The pin has a pin body 1 formed from a sequence of four truncated cones which define a serrated profile. This enables the pin to engage the membrane barrier and to be pushed-fitted into the tissue structure. A head portion 2 of the pin serves to engage the membrane barrier and retain it.

The Day et al. reference clearly fails to teach and clearly fails to suggest the method features of claim 1 and those of newly presented claims 18 - 26. Particularly, according to the

invention the micronail is first fitted or implanted into the bone. During a subsequent step there is a fastening of the protective membrane on the micronail by a retention element. This sequence is significant. As indicated in the application text if the membrane is first positioned and then connected to the nail or if the nail is pushed through the membrane and then connected to the bone, the connection to the bone takes place without the ability to view the bone to nail connection site. That is, with the membrane already connected, it is not possible to view the nail being inserted and to select the appropriate location.

The invention provides a particular combination of features including first fitting micronail into the bone (implanting) and then fastening on the protective membrane. With this, the site of connection of the nail to the bone is selectable without the membrane being in the line of vision. The Day et al. reference clearly fails to teach and clearly fails to suggest the combination of features claimed. Accordingly, reconsideration of the rejection of claim 1 and favorable consideration of the new method claims is requested.

Claims 2 - 17 have been rejected as being anticipated by Pelo (U.S. Publication No. 2003/0032961). The rejection is based on the position that Pelo discloses each of the features as claimed. However, the Pelo et al. reference fails to teach and fails to suggest the combination of features of claim 2. Most notably, Pelo fails to suggest the means for fastening the membrane by trapping the membrane between a portion of the micronail and retention element after the micronail has already been fitted to the jaw bone. Such a means is not taught and not suggested by Pelo et al. Instead, Pelo et al. discloses structure which presents the same problems as noted by Applicant, namely the problems of the prior art are still present using the

structure of Pelo.

Applicant presents the structure which avoids a particular problem based on a particular means as claimed. The feature of the structure for connecting the micronail to the bone and then fastening the protective member by the additional retention element is not suggested by the prior art including Pelo. Accordingly, reconsideration of claim 2 and claims depending thereon is requested.

Favorable action on the merits is requested.

Respectfully submitted  
for Applicant,



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Attached: Abstract of the Disclosure

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-0410.

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